

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-070093
		C-070094
Plaintiff-Appellee,	:	TRIAL NOS. B-0608276
		B-0607412
vs.	:	
KEVIN KINNEY,	:	<i>JUDGMENT ENTRY.</i>
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Kevin Kinney appeals his convictions for aggravated burglary and breaking and entering. As part of a plea agreement, Kinney had entered pleas of guilty to those two offenses, and the state dismissed a charge for possessing criminal tools. The trial court conducted the required colloquy, accepted the pleas, and found Kinney guilty. After reviewing the presentence-investigation report and a court-clinic psychological evaluation, the trial court imposed a cumulative prison term of seven years with credit for 144 days of confinement already served.

Pursuant to *Anders v. California*,<sup>2</sup> Kinney's appointed appellate counsel has advised this court that, after a thorough review of the record, he can find nothing that would arguably support the appeal. Appellate counsel has communicated his conclusion

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

<sup>2</sup> (1967), 386 U.S. 738, 87 S.Ct. 1396.

to Kinney and has moved this court for permission to withdraw as counsel.<sup>3</sup> In his brief, appointed counsel states that Kinney believes that he was denied the effective assistance of counsel.

Counsel now requests that this court independently examine the record to determine whether the appeal is wholly frivolous.<sup>4</sup> We have done so, and we concur in counsel's conclusion that the proceedings below were free of error prejudicial to Kinney. The record reflects that the trial court, pursuant to Crim.R. 11(C), ensured that the pleas were made knowingly and voluntarily, and that it imposed a sentence in accordance with law. Kinney's trial counsel acted as an effective advocate throughout the proceedings, including requesting that a psychological evaluation be made prior to sentencing. We, therefore, overrule counsel's motion to withdraw from his representation of Kinney and affirm the judgment of the trial court.

Our determination that the proceedings below were free of prejudicial error also compels our conclusion that there were no reasonable grounds for this appeal. But because of Kinney's indigency, we allow no penalty.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., HENDON and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on November 7, 2007  
per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>3</sup> See *id.* at 744, 87 S.Ct. 1396.

<sup>4</sup> See *id.*; see, also, *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958.